

**TRANSPORTATION INFRASTRUCTURE IN
REDEVELOPMENT AGENCY**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Todd E. Kiser

This act modifies the Redevelopment Agencies Act and the Revenue and Taxation Code to allow under certain circumstances the use of tax increment outside of a project area for transportation infrastructure projects related to a convention center or sports complex. This act modifies how the certified tax rate is to be calculated for purposes of projects that generate tax increment to be used for transportation infrastructure outside of the project area. This act also makes technical changes.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-2-918, as last amended by Chapter 127, Laws of Utah 1999

59-2-924, as last amended by Chapters 133, 195 and 258, Laws of Utah 2001

ENACTS:

17B-4-1012, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **17B-4-1012** is enacted to read:

17B-4-1012. Agency may use tax increment for transportation infrastructure.

(1) As used in this section:

(a) "Eligible agency" means an agency created by a city:

(i) of the first or second class; and

(ii) within which a targeted facility is located.

(b) "Targeted facility" means a convention center or sports complex described in

Subsection 17B-4-1007(3).

(c) "Transportation infrastructure project" means:



(i) the installation, construction, or rehabilitation of:

(A) parking; or

(B) a highway, as defined in Section 72-1-102;

(ii) the development of a public transportation system; or

(iii) a transportation related project similar to a project described in Subsection (1)(c)(i) or (ii).

(2) In addition to tax increment used in accordance with Subsection 17B-4-1007(3), an eligible agency may use tax increment from a project area within the eligible agency to pay all or part of the cost of a transportation infrastructure project that is outside of the project area if the transportation infrastructure project is:

(a) wholly located within the boundaries of the city that created the eligible agency; and

(b) related to a targeted facility.

(3) (a) Each eligible agency shall separately account for tax increment used under Subsection (2), including all interest earned by the tax increment used under Subsection (2).

(b) Interest earned by the tax increment used under Subsection (2) shall accrue to the account described in Subsection (3)(a).

(4) (a) A school district that levies a property tax on property located within a project area may elect not to allow an eligible agency to be paid tax increment under Subsection (2) from property tax revenues generated by the school district within that project area.

(b) Each election under Subsection (4)(a) shall be made in writing to the eligible agency before the taxing entity committee's approval of the project area budget that provides for an eligible agency to use tax increment as provided in Subsection (2).

(c) If a school district makes an election under this Subsection (4):

(i) the eligible agency may not be paid tax increment for a transportation infrastructure project under Subsection (2) from property tax revenues generated by the school district within the project area; and

(ii) the school district representatives and the State Board of Education representative on the taxing entity committee may not vote on any matter concerning:

(A) a transportation infrastructure project for which the agency uses tax increment as provided in Subsection (2); or

(B) the project area budget to the extent that it relates to the eligible agency's use of tax increment under Subsection (2).

Section 2. Section **59-2-918** is amended to read:

59-2-918. Advertisement of proposed tax increase -- Notice -- Contents.

(1) (a) Except as provided in Subsection (1)(b), a taxing entity may not adopt a budget ~~[an increased amount of ad valorem tax revenue exclusive of revenue from new growth as defined in Subsection 59-2-924(2)]~~ that would result in the taxing entity imposing a tax rate that exceeds the certified tax rate calculated in accordance with Section 59-2-924 unless [it] the taxing entity advertises its intention to do so at the same time that ~~[it] the taxing entity~~ advertises its intention to ~~[fix]~~ adopt its budget for the forthcoming fiscal year.

(b) Notwithstanding Subsection (1)(a), a taxing entity is not required to meet the advertisement requirements of this section if the taxing entity collected less than \$15,000 in ad valorem tax revenues for the previous fiscal year.

(2) (a) For taxing entities operating under a July 1 through June 30 fiscal year, the advertisement required by this section may be combined with the advertisement required by Section 59-2-919.

(b) For taxing entities operating under a January 1 through December 31 fiscal year, the advertisement shall meet the size, type, placement, and frequency requirements established under Section 59-2-919.

(3) The form of the advertisement shall meet the size, type, placement, and frequency requirements established under Section 59-2-919 and shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

The (name of the taxing entity) is proposing to increase its property tax revenue. As a result of the proposed increase, the tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence will be \$_____, and the tax on a business having the same value as the average value of a residence in the taxing entity will be_____. Without the proposed increase, the tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would be \$_____, and the tax on a business having the same value as the average value of a residence in the taxing entity would be_____.

This would be an increase of _____%, which is \$_____ per year (\$_____ per

month) on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence or \$_____ per year on a business having the same value as the average value of a residence in the taxing entity. With new growth, this property tax increase, and other factors, (name of taxing entity) will increase its property tax revenue from \$_____ collected last year to \$_____ collected this year which is a revenue increase of _____%.

All concerned citizens are invited to a public hearing on the tax increase to be held on (date and time) at (meeting place)."

(4) If a final decision regarding the budgeting of an increased amount of ad valorem tax revenue is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the proposed budget increase.

(5) (a) Each taxing entity operating under the January 1 through December 31 fiscal year shall by March 1 notify the county of the date, time, and place of the public hearing at which the budget for the following fiscal year will be considered.

(b) The county shall include the information described in Subsection (5)(a) with the tax notice.

(6) A taxing entity shall hold a public hearing under this section beginning at or after 6 p.m.

Section 3. Section **59-2-924** is amended to read:

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative budget.

(1) (a) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(i) a statement containing the aggregate valuation of all taxable property in each taxing entity; and

(ii) a statement containing the taxable value of any additional personal property estimated by the county assessor to be subject to taxation in the current year.

(b) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(i) the statements described in Subsections (1)(a)(i) and (ii);

(ii) an estimate of the revenue from personal property;

(iii) the certified tax rate; and

(iv) all forms necessary to submit a tax levy request.

(2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were collected by that taxing entity for the prior year.

(ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not include:

(A) collections from redemptions;

(B) interest; and

(C) penalties.

(iii) Except as provided in Subsection (2)(a)(iv), the certified tax rate shall be calculated by dividing the ad valorem property tax revenues collected for the prior year by the taxing entity by the taxable value established in accordance with Section 59-2-913.

(iv) The certified tax rates for the taxing entities described in this Subsection (2)(a)(iv) shall be calculated as follows:

(A) except as provided in Subsection (2)(a)(iv)(B), for new taxing entities the certified tax rate is zero;

(B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(I) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(C) for debt service voted on by the public, the certified tax rate shall be the actual levy imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125, 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

(II) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-906.3.

(v) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall

be established at that rate which is sufficient to generate only the revenue required to satisfy one or more eligible judgments, as defined in Section 59-2-102.

(B) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use the taxable value of property on the assessment roll.

(ii) ~~[For]~~ Except as provided in Subsection (2)(b)(v), for purposes of Subsection (2)(b)(i), the taxable value of property on the assessment roll does not include new growth as defined in Subsection (2)(b)(iii).

(iii) "New growth" means:

(A) the difference between the increase in taxable value of the taxing entity from the previous calendar year to the current year; minus

(B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

(iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

(A) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or

(B) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:

(I) the Legislature;

(II) a court;

(III) the commission in an administrative rule; or

(IV) the commission in an administrative order.

(v) Notwithstanding Subsection (2)(b)(ii), for purposes of calculating the certified tax rate of a county, city, or town, the taxable value of property on the assessment roll includes an increase in the taxable value of property within a project area from which tax increment will be collected and used in accordance with Section 17B-4-1012.

(c) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased

183 revenues.

184 (d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under
185 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

186 (A) decreased on a one-time basis by the amount of the estimated sales tax revenue to
187 be distributed to the county under Subsection 59-12-1102(3); and

188 (B) increased by the amount necessary to offset the county's reduction in revenue from
189 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as
190 a result of the decrease in the certified tax rate under Subsection (2)(d)(i)(A).

191 (ii) The commission shall determine estimates of sales tax distributions for purposes of
192 Subsection (2)(d)(i).

193 (e) Beginning January 1, 1998, if a municipality has imposed an additional resort
194 communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be
195 decreased on a one-time basis by the amount necessary to offset the first 12 months of
196 estimated revenue from the additional resort communities sales tax imposed under Section
197 59-12-402.

198 (f) For the calendar year beginning on January 1, 1999, and ending on December 31,
199 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the
200 adjustment in revenues from uniform fees on tangible personal property under Section
201 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under
202 Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

203 (g) For purposes of Subsections (2)(h) through (j):

204 (i) "1998 actual collections" means the amount of revenues a taxing entity actually
205 collected for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:

206 (A) motor vehicles required to be registered with the state that weigh 12,000 pounds or
207 less; and

208 (B) state-assessed commercial vehicles required to be registered with the state that
209 weigh 12,000 pounds or less.

210 (ii) "1999 actual collections" means the amount of revenues a taxing entity actually
211 collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.

212 (h) For the calendar year beginning on January 1, 2000, the commission shall make the
213 following adjustments:

(i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were greater than the sum of:

(A) the taxing entity's 1999 actual collections; and

(B) any adjustments the commission made under Subsection (2)(f);

(ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual collections were less than the sum of:

(A) the taxing entity's 1999 actual collections; and

(B) any adjustments the commission made under Subsection (2)(f); and

(iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were less than the taxing entity's 1999 actual collections.

(i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the taxing entity's 1998 actual collections; and

(B) the sum of:

(I) the taxing entity's 1999 actual collections; and

(II) any adjustments the commission made under Subsection (2)(f).

(ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the sum of:

(I) the taxing entity's 1999 actual collections; and

(II) any adjustments the commission made under Subsection (2)(f); and

(B) the taxing entity's 1998 actual collections.

(iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection

245 (2)(f).

246 (j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
247 purposes of Subsections (2)(f) through (i), the commission may make rules establishing the
248 method for determining a taxing entity's 1998 actual collections and 1999 actual collections.

249 (k) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
250 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
251 unincorporated area of the county shall be decreased by the amount necessary to reduce
252 revenues in that fiscal year by an amount equal to the difference between the amount the county
253 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
254 countywide and the amount the county spent during fiscal year 2000 for those services,
255 excluding amounts spent from a municipal services fund for those services.

256 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection
257 (2)(k)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal
258 year by the amount that the county spent during fiscal year 2000 for advanced life support and
259 paramedic services countywide, excluding amounts spent from a municipal services fund for
260 those services.

261 (ii) (A) A city or town located within a county of the first class to which Subsection
262 (2)(k)(i) applies may increase its certified tax rate by the amount necessary to generate within
263 the city or town the same amount of revenues as the county would collect from that city or
264 town if the decrease under Subsection (2)(k)(i) did not occur.

265 (B) An increase under Subsection (2)(k)(ii)(A), whether occurring in a single fiscal
266 year or spread over multiple fiscal years, is not subject to the notice and hearing requirements
267 of Sections 59-2-918 and 59-2-919.

268 (l) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to
269 provide detective investigative services to the unincorporated area of the county shall be
270 decreased:

271 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year
272 by at least \$4,400,000; and

273 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
274 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in
275 revenues under Subsection (2)(l)(i)(A).

(ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the city or town the same amount of revenue as the county would have collected during county fiscal year 2001 from within the city or town except for Subsection (2)(l)(i)(A).

(II) Beginning with municipal fiscal year 2003, a city or town located within a county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the city or town the same amount of revenue as the county would have collected during county fiscal year 2002 from within the city or town except for Subsection (2)(l)(i)(B).

(B) (I) Except as provided in Subsection (2)(l)(ii)(B)(II), an increase in the city or town's certified tax rate under Subsection (2)(l)(ii)(A), whether occurring in a single fiscal year or spread over multiple fiscal years, is subject to the notice and hearing requirements of Sections 59-2-918 and 59-2-919.

(II) For an increase under this Subsection (2)(l)(ii) that generates revenue that does not exceed the same amount of revenue as the county would have collected except for Subsection (2)(l)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

(aa) publishes a notice that meets the size, type, placement, and frequency requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed by the county to one imposed by the city or town, and explains how the revenues from the tax increase will be used; and

(bb) holds a public hearing on the tax shift that may be held in conjunction with the city or town's regular budget hearing.

(m) (i) This Subsection (2)(m) applies to each county that:

(A) establishes a countywide special service district under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, to provide jail service, as provided in Subsection 17A-2-1304(1)(a)(x); and

(B) levies a property tax on behalf of the special service district under Section 17A-2-1322.

(ii) (A) The certified tax rate of each county to which this Subsection (2)(m) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(B) Each decrease under Subsection (2)(m)(ii)(A) shall occur contemporaneously with the levy on behalf of the special service district under Section 17A-2-1322.

(3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:

(i) its intent to exceed the certified tax rate; and

(ii) the amount by which it proposes to exceed the certified tax rate.

(c) The county auditor shall notify all property owners of any intent to exceed the certified tax rate in accordance with Subsection 59-2-919(2).

(4) (a) The base taxable value [~~for the base year~~] under Subsection 17B-4-102(4) shall be reduced for any year to the extent necessary to provide a redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17B-4-1003 or 17B-4-1004.

(b) The base taxable value [~~of the base year~~] under Subsection [~~17B-4-101~~] 17B-4-102(4) shall be increased in any year to the extent necessary to provide a redevelopment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value [~~for the base year~~] under Subsection [~~17B-4-101~~] 17B-4-102(4) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

(ii) the certified tax rate of a city, school district, or special district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i), the amount of money allocated and, when collected, paid each year to a

338 redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act,
339 for the payment of bonds or other contract indebtedness, but not for administrative costs, may
340 not be less than that amount would have been without a decrease in the certified tax rate under
341 Subsection (2)(c) or (2)(d)(i).

Legislative Review Note
as of 1-21-03 9:27 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel